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HONOURABLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION NO.16143 OF 1994

DATED:26th September, 2005

Between:

1. D.B.Saibaba and 3 others

..... PETITIONERS

AND

1. A.P.S.E.B. rep.by its Member Secretary to Board,

Vidyutsoudha, Kairtabad, Hyderabad and 2 others.

.....RESPONDENTS

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HONOURABLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION NO.16143 OF 1994

ORDER:

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This writ petition is filed by the petitioners seeking to direct the respondents to take the service of the petitioners under a Contractor and the service under the Board for the purpose of working out their seniority for appointment to regular posts, and consequently, to absorb them into regular vacancies available with the respondents.

2. The petitioners contended that they worked under the respondents-board for some time, and later, they were asked to work under contractors and accordingly, they worked under the contractors. When the respondents did not consider the period of their work under a contractor, the petitioners and others filed W.P.No.2555 of 1982 seeking a direction to the respondents-board to count the period of work under the contractor also for the purpose of seniority in the list of casual labour, but the writ petition was dismissed by the High Court. The petitioners and others being aggrieved by the order of the learned Single Judge filed W.A.No.390 of 1985, wherein, the writ appeal was allowed by a Division Bench of this Court with the following observation:

> "Accordingly, the case of the Board that the petitioners are not in their employment and at best they can be said to be in the employment of the so-called petty contractors who were executing the work of the Board is neither tenable firstly because the devise of 'Contract Labour' is in violation of the provisions of the Contract Labour (Regulation & Abolition) Act of 1970, nextly because as per the Supreme Court decision, they still continue to be the workman of the Board and not the so-called petty contractors."

3. The Board went to the Supreme Court and the Honourable Supreme Court in S.L.P.No.8302 of 1987 while dismissing the SLP on 19-10-1987 made the following observation:

> "The Special Leave Petitions are dismissed. The petitioners are at liberty to prepare a scheme if he has not already prepared a scheme for absorption of all the casual labour. Before extending the benefit of the scheme to any particular person, the petitioner is at liberty to determine whether he was really working as casual labour. All the exercises rather the time for complying the order of High Court is extended by three months."

4. Subsequently, the Electricity board prepared a seniority list of the casual labour on 20-08-1990 calling for the objections, if any, from the candidates mentioned therein. The petitioners approached this Court through this writ petition with a grievance that the entire service of the petitioners including the service under the contractor was not considered for the purpose of seniority.

5. The learned counsel for the respondents submitted that subsequent to the observations of the Supreme Court, a scheme was formulated by the Electricity Board on 26-08-1985 prescribing certain norms for absorption of the casual labour, and as per the said scheme, the casual labour who can read and write shall work for 100 days, the candidates who passed 8^{th} Class shall work for 90 days, the candidates who passed 10^{th} class shall work for 80 days and the candidates who passed I.T.I. (Electrical Trade) shall work for 60 days for the purpose of considering their absorption into regular posts. The learned counsel further submitted that since the petitioners did not fulfill those conditions, their cases were not considered, therefore, there cannot be any grievance to the petitioners for not considering their names for absorption in regular posts.

6. After perusing the entire record and the writ affidavit, it is noticed that the petitioners did not mention under which contractor each of them worked, during what period they worked, what was the nature of work they attended, and for how many days they worked under each contractor. Except saying that the period of work under the contractor was not included for the purpose of fixing their seniority, they did not produce any material to show that they worked for a particular period under the respective contractors. The letters addressed to the third respondent by each of the petitioners also do not disclose any such particulars. In the absence of such information from the petitioners, it is not possible to issue any direction to the respondents to consider such period for the purpose of working out the seniority. In the light of the above circumstances, I do not find any grounds to issue any direction to the respondents.

7. The writ petition is accordingly dismissed. No order as to costs.

26th September, 2005

SKM